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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,205	08/29/2003	Steven J. Johnson	45088	7628

1609 7590 10/08/2004

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EXAMINER

RAMIREZ, RAMON O

ART UNIT PAPER NUMBER

3632

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/651,205

**Applicant(s)**JOHNSON ET AL. **Examiner**

RAMON O. RAMIREZ

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-28 is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-21, 29 and 30 is/are rejected.
- 7) ☒ Claim(s) 17 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Detailed Action***

This is the second Office Action corresponding to amendment filed Aug 17, 2004.

Claims 1-30 are active. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 1, 3, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Rinderer (Pat No 4,967,990).

The patent to Rinderer shows a brace assembly for supporting an outlet box to supports, comprising a brace (21) having a base and mounting surfaces (51) extending from the base at angle greater than 90 degree (see Fig 2). The mounting surfaces having a perpendicular extending flange (53) having a hole for receiving a fastener to secure the brace to the supports.

***Claim Rejections - 35 USC § 103***

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer. To make the angle at which the mounting surfaces (51) extend from the base at 94 degree is considered to be an obvious matter of engineering choice, or mechanical expedient in the absent of unexpected results. Rinderer clearly shows it to be more than 90 degrees.

Claims 4, 8-16, 20, 21, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer in view of Harris et al. (Pat No 4,050,603).

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The patent to Harris et al. shows a brace assembly for securing an outlet box to supports, comprising telescopic adjustable members each having a mounting surface with a fastener hole and prongs to further secure the brace to the supports.

It would have been obvious to one skilled in the art at the time the invention was made to have made the brace assembly shown by Rinderer with telescopic brace members and the mounting surface with prongs to facilitate the use of the device. The telescopic brace members would permit easier storage, transportation, handling and more versatility of the brace member (since it can adjust its length to different distance between the supports).

The prongs would provide for an additional fastening means of the brace to the supports. As explained above the angle at which the mounting surfaces are formed is considered a matter of engineering choice.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer in view of Fast (Pat No 5,040,316).

The patent to Fast shows the use of score lines to remove a portion to adjust to a desired length. It would have been obvious to one skilled in the art at the time the invention was made to have provided the device shown by Rinderer with score lines to adjust the length of the mounting surfaces to facilitate the use of the device and its versatility.

Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer in view of Harris et al. and Fast.

The patent to Fast shows the use of score lines to remove a portion to adjust to a desired length. It would have been obvious to one skilled in the art at the time the invention was

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made to have provided the device shown by the combination set forth above with score lines to adjust the length of the mounting surfaces to facilitate the use of the device and its versatility.

*Allowable Subject Matter*

Claims 17 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 23-28 are allowed.

*Response to Arguments*

Applicant's arguments have been fully considered but they are not persuasive. Applicant relies in functional to recite a compression fit between the mounting surfaces and the support members. However, this compression fit depends from the distance between the support members.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

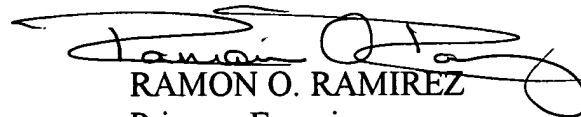
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (703) 308-0748. The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESLIE BRAUN can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RAMON O. RAMIREZ  
Primary Examiner  
Art Unit 3632

ROR  
October 4, 2004